

**EPA Consultation with the Muscogee Creek Nation under Section 106 of the National Historic Preservation Act (NHPA) on the State of Florida's Request for Assumption of the Clean Water Act Section 404 Program
October 15, 2020**

Attendees

- **Muscogee Creek Nation:** RaeLynn Butler, Robin Soweka Jr., LeeAnne Wendt
- **EPA:** Rosemary Calli, Michael Creswell, Jeananne Gettle, Matt Hicks, Kelly Laycock, Thomas McGill

Comments from the Muscogee Creek Nation Shared for EPA's Consideration

- If FDEP wants to assume the program, there should be consultation with Tribes on the undertakings that would otherwise be taking place with the Corps.
- The Tribe noted that previously established Programmatic Agreements under section 106 of the NHPA often take a long time (e.g., up to a year). The Tribe does not believe a Programmatic Agreement can be completed within 2 months, as the process requires a lot of consultation and coordination.
- The Tribe requested a draft of the Programmatic Agreement as soon as possible.
- The Tribe requested a meeting with the Advisory Council on Historic Preservation and all of the Tribal partners to discuss and review the Programmatic Agreement.
- The Tribe expressed that they are a sovereign nation, not the public, and therefore should not be bound to a 30-day review period for projects that may impact culturally sensitive areas.
- The Tribe believes that the undertaking is an adverse effect.
- The Tribe expressed that they are connected with the Seminole Tribe.
- The Tribe expressed that they did not understand why EPA did not view the delegation of programs to Oklahoma as something that was an undertaking that required consultation under section 106 of the NHPA.
- The Tribe expressed that they do not understand why they were not consulted prior to the execution of the Memorandum of Agreement between EPA and the State of Florida.

Specific Action Items from the Discussion

- EPA will provide the Tribe with a copy of the slides that were presented.
- EPA will provide the Tribe with a copy of the Operating Agreement between FDEP and the State Historic Preservation Officer, which was part of the State of Florida's request for assumption of the Clean Water Act Section 404 program.
- EPA is asking for comments from the Tribe, including what we should consider for the NHPA Programmatic Agreement, by a date close to the end of the public comment period (e.g., by November 2, 2020).
- The Tribe will send a letter with their official comments.